

1 Francesco Benavides, CSBN 258924
2 Law Offices of Francesco Benavides
3 1990 N. California Blvd. Suite 20
4 Walnut Creek, CA 94596
5 Tel: (925) 222-7071
6 Fax: (925) 522-5306
7 Email: francesco@benavidesdisabilitylaw.com

8 Attorney for Plaintiff
9 RUTH ROCIO SILVA

10 UNITED STATES DISTRICT COURT
11 EASTERN DISTRICT OF CALIFORNIA
12 FRESNO DIVISION

13 RUTH ROCIO SILVA,

14 Plaintiff,

15 v.

16 KILOLO KIJAKAZI, Acting
17 Commissioner of Social Security,

18 Defendant.

Case No. 1:21-cv-00770-SKO

STIPULATION FOR THE AWARD AND
PAYMENT OF ATTORNEY FEES AND
EXPENSES PURSUANT TO THE
EQUAL ACCESS TO JUSTICE ACT;
ORDER

(Doc. 13)

19
20 IT IS HEREBY STIPULATED by and between the parties through their
21 undersigned counsel, subject to the approval of the Court, that Plaintiff be awarded
22 attorney fees and expenses in the amount of \$4,000.00, under the Equal Access to
23 Justice Act (EAJA), 28 U.S.C. § 2412(d). This amount represents compensation for all
24 legal services rendered on behalf of Plaintiff by counsel in connection with this civil
25 action, in accordance with 28 U.S.C. § 2412(d).

26 After the Court issues an order for EAJA fees to Plaintiff, the government will
27 consider the matter of Plaintiff's assignment of EAJA fees to counsel. Pursuant to
28 *Astrue v. Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability

1 to honor the assignment will depend on whether the fees are subject to any offset
2 allowed under the United States Department of the Treasury's Offset Program. After
3 the order for EAJA fees is entered, the government will determine whether they are
4 subject to any offset.

5 Fees shall be made payable to Plaintiff, but if the Department of the Treasury
6 determines that Plaintiff does not owe a federal debt, then the government shall cause
7 the payment of fees, expenses and costs to be made directly to Plaintiff's counsel,
8 Francesco Benavides, pursuant to the assignment executed by Plaintiff.

9 This stipulation constitutes a compromise settlement of Plaintiff's request for
10 EAJA attorney fees and does not constitute an admission of liability on the part of
11 Defendant under the EAJA or otherwise. Payment of the agreed amount shall
12 constitute a complete release from, and bar to, any and all claims that Plaintiff and/or
13 Francesco Benavides may have relating to EAJA attorney fees in connection with this
14 action.

15 This award is without prejudice to the rights of Francesco Benavides to seek
16 Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings
17 clause provisions of the EAJA.

18
19 Respectfully submitted,

20
21 Dated: March 16, 2022

Law Offices of Francesco Benavides

22
23 By: /s/ Francesco Benavides
24 FRANCESCO P. BENAVIDES
25 Attorney for Plaintiff
26
27
28

1 Dated: March 16, 2022

PHILLIP A. TALBERT
United States Attorney
PETER THOMPSON
Acting Regional Chief Counsel, Region IX
Social Security Administration

5 By: Patrick Snyder*
PATRICK SNYDER
Special Assistant U.S. Attorney
Attorneys for Defendant
(*Permission to use electronic signature
obtained via email on March 16, 2022).

10 **ORDER**

11 Based upon the parties' foregoing Stipulation for the Award and Payment of Equal
12 Access to Justice Act Fees and Expenses (the "Stipulation") (Doc. 13), **IT IS ORDERED**
13 that fees and expenses in the amount of \$4,000.00 as authorized by 28 U.S.C. § 2412 be
14 awarded subject to the terms of the Stipulation.

17 IT IS SO ORDERED.

18 Dated: March 16, 2022

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE